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PATENT APPLICATION
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responsive". However, Applicants respectfully submit that the provisions of §1.111 do not apply here, for the following reasons.

The Examiner issued a final rejection on December 31, 2002. Applicants filed a Response to the final rejection on January 7, 2003. The Examiner issued an Advisory Action on January 23, 2003. Applicants filed a Response to the Advisory Action (and the final rejection) on January 29, 2003. Thus, in response to the last Office Action in this application, Applicants filed two separate Responses, neither of which was subject to an objection for being "non-responsive".

The provisions of 37 C.F.R. §1.114(d) and MPEP §706.07(h) specify that, in response to filing of an RCE, the PTO will withdraw the finality of any Office Action. Consequently, since an RCE has been filed in the present application, the PTO has automatically withdrawn the finality of the Office Action mailed on December 31, 2002. The provisions of 37 C.F.R. §1.114(c) specify that if a reply to an Office Action is outstanding when an RCE is filed, then the submission accompanying the RCE must meet the reply requirements of 37 C.F.R. §1.111. However, in the present application, and as mentioned above, Applicants previously filed two separate Responses to the Office Action mailed on December 31, 2002. Consequently, since Applicants have already filed two proper replies to the Office Action mailed on December 31, 2002, and since filing of the RCE caused the PTO to automatically withdraw the finality of that Office Action, the need to file a reply to that Office Action has been satisfied and is no longer outstanding.

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Thus, in accord with PTO rules, the submission accompanying Applicants' RCE in the present application does not need to meet the reply requirements of §1.111. For example, under these circumstances, Applicants' "submission" with the RCE could have been just an information disclosure statement, which would have been completely proper without any need to meet any requirement of §1.111. What Applicants actually chose to file as their RCE "submission" happens to be a Preliminary Amendment rather an information disclosure statement, but for the same reasons that an information disclosure statement would not need to comply with any requirement of §1.111, the Preliminary Amendment does not need to comply with any requirement of §1.111. In this regard, the provisions of 37 C.F.R. §1.114(c) point out that an amendment to the claims qualifies as a "submission" for purposes of an RCE. Applicants' Preliminary Amendment includes an amendment to the claims, and there is no requirement that it include anything other than an amendment to the claims. It is respectfully submitted that Applicants' Preliminary Amendment is in full compliance with §1.114(c), and that Applicants are entitled to have the Preliminary Amendment entered and then considered on the merits, as required by §1.114(d).

For reasons discussed above, §1.111 does not apply here, and there is no requirement in any rule which, under the present circumstances, would require Applicants to "state how any of the claims define over the prior art" (as asserted in the PTO Communication). Nevertheless, and purely as a courtesy to the Examiner, Applicants will offer some brief comments as to why the claims are distinct from the prior art.

First, Claims 7-12 and 19-23 have previously been indicated to be allowable, and remain in the application

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unchanged. Since the Examiner has already conceded that these claims are patentably distinct from the art of record, it is respectfully submitted that there is no basis for the assertion in the PTO Communication that Applicants were obligated to offer an explanation of why these allowed claims are patentably distinct from the art of record.

Independent Claim 1 recites a heat pipe which is disposed within the material of a housing with a surface, and also recites that the heat pipe is "operative to facilitate heat distribution within the material of said housing". The last Office Action rejected Claim 1 under 35 U.S.C. §102 as anticipated by Faghri U.S. Patent No. 4,976,308. Faghri discloses a housing with a surface, and discloses several heat pipes 22, but none of the heat pipes 22 are "operative to facilitate heat distribution within the material of said housing". Claim 1 also specifies that the recited heat pipe facilitates the heat distribution within the material of the housing "in a manner which reduces temperature gradients across said surface". In contrast, none of the heat pipes 22 of Faghri are capable of distributing heat within the housing "in a manner which reduces temperature gradients across said surface". Claim 1 thus includes limitations which are not present in the Faghri patent. Faghri thus does not anticipate Claim 1 under §102.

Independent Claim 14 includes limitations similar to those discussed above in association with Claim 1. In particular, Claim 14 recites a method which involves a heat pipe disposed within the material of a housing that has a surface, also recites that the heat pipe is operative for "distributing said heat within the material of said housing", and further recites that this occurs "in a manner which

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reduces temperature gradients across said surface". The heat pipes of Faghri do not do this, and Claim 14 is thus believed to be patentably distinct from Faghri.

Independent Claim 27 is an apparatus claim which recites a housing with a surface, and which recites "means for distributing heat within the material of said housing in a manner which reduces temperature gradients across said surface, said means including a heat pipe disposed within the material of said housing". For reasons similar to those discussed above in association with Claim 1, it is respectfully submitted that Claim 27 includes limitations which are not present in the Faghri device. Claim 27 is therefore believed to be patentably distinct from Faghri.

Claims 2-6, 13 and 24-26 depend from Claim 1, and are also believed to be allowable over the art of record, for example for the same reasons discussed above with respect to Claim 1. Claims 15-18 depend from Claim 14, and are also believed to be allowable over the art of record, for example for the same reasons discussed above with respect to Claim 14. Claims 28-36 depend from Claim 27, and are also believed to be allowable over the art of record, for example for the same reasons discussed above with respect to Claim 27.

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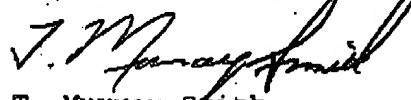
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In view of the foregoing, further and favorable consideration of the present application is respectfully requested.

Respectfully submitted,
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Enclosures: None

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